DOCUMENT RESUME

ED 148 790 SP 012 042

AUTHOR Newman, Ian M.; Wilson, Richard W.
TITLE School Health Legislation--One State's Experiences.
PUB DATE 2 Nov 77
NOTE 13p.; Paper presented at the Annual Meeting, American Public Health Association (Washington, D.C., November 2, 1977)

EDRS PRICE MF-$0.83 Plus Postage. HC Not Available from EDRS.
DESCRIPTORS *Change Strategies; *Communication Problems; *Educational Change; *Health Education; *Political Issues
IDENTIFIERS *Nebraska

ABSTRACT

The author argues that legitimacy in curriculum offerings will result from exemplary programs serving community needs and involving community resources, rather than from legislative effort. In reviewing unsuccessful attempts to legislate a health education program in Nebraska, the following observations are made: (1) legislation "borrowed" from another state is highly at risk because it does not reflect local values; (2) health education continues to be a misunderstood term, and low in most people's priorities; (3) pro-health education forces overreached in seeking new legislation rather than in seeking funding for existing legislation--a case of unrealistic expectations; (4) lack of communication was a major factor in the failure of this effort; (5) proponents of the legislation seemed to have learned little from similar experiences in previous years; (6) "free floating fear," vague and general worry not directly attributable to the legislation itself, is almost impossible to counter without extensive public understanding and support of the legislation in question; and (7) efforts placed in a project to implement a model school health education curriculum, and to raise money for the materials and training, would likely have greater impact than promoting laws setting requirements or printing curriculum guides. (MJB)

****
* Documents acquired by ERIC include many informal unpublished *
* materials not available from other sources. ERIC makes every effort *
* to obtain the best copy available. Nevertheless, items of marginal *
* reproducibility are often encountered and this affects the quality *
* of the microfiche and hardcopy reproductions ERIC makes available *
* via the ERIC Document Reproduction Service (EDRS). EDRS is not *
* responsible for the quality of the original document. Reproductions *
* supplied by EDRS are the best that can be made from the original. *
****

ED148790

SCHOOL HEALTH LEGISLATION -- ONE STATE'S EXPERIENCES

Ian M. Newman, Ph.D.
Richard W. Wilson, D.H.Sc.
Health Education Department
University of Nebraska, Lincoln, Nebraska

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

"PERMISSION TO REPRODUCE THIS MATERIAL BY MICROFICHE ONLY HAS BEEN GRANTED BY

Ian M. Newman
R. W. Wilson

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC) AND THE ERIC SYSTEM CONTRACTORS."

(Draft only--not to be reproduced in any form without permission)

SP 012 042

A paper presented to the School Health Section, American Public Health Association Annual Meeting, Washington, D.C., November 2, 1977.

Many have voiced the platitude that there are two ways to bring about social change: legislation and education. The fact that education is so often legislation is overlooked by supporters of the educational process. Education is only one of many alternatives available to those involved in the change process.

Traditionally minimal educational experiences have been legislated on a state-by-state basis. Health Education, apparently unable to gain access to the average school curriculum by other means, has also sought legislative assistance in a number of states. Since 1967 when the New York state legislature passed and funded its historic health education requirements, health educators have watched with envy as New York moved to establish a "model" health education program. Others, sensing the almost limitless potentials and imagined legitimacy (and job security) of a health education program required by law, have attempted to gain similar legislative approval. In one state, Nebraska, these attempts have shown vividly how health educators and their supporters have failed to understand the legislative process.

The difficulties of the political process are well illustrated by Creswell and Janeway in their report on the careful planning which went into the initial attempt of the Illinois Joint Committee on Health Education to gain the passage of health education legislation. After two years of planning, the Illinois legislation was passed but not funded. Creswell and Janeway conclude, nevertheless, that "legislation is the key to comprehensive programming."[1]

In the State of Nebraska,* groups have individually and collectively attempted to promote health education through legislation. A retrospective analysis of these attempts is both informative and revealing and is presented here to document the experience in one state in the hope that this information may be useful to others about to initiate such legislation.

---

*Since 1937 Nebraska has had a unicameral legislature. Forty-nine members represent the citizens of the state in a one-house legislature recognized both for its accountability and for easy access to the limited number of legislators.

Background

Nothing is gained by identifying the participants in this situation. For the seriously interested and the curious, full transcripts are available from the Clerk of the Legislature.** Such transcript material has been greatly abbreviated in this account, but the clear intent of each speaker has been maintained.

In January of 1971, a bill (LB 51)*** came before the legislature calling for comprehensive health education in the elementary and secondary schools of the state. The bill was passed but never funded. LB 51 used the term "comprehensive health education" but specified only the topic of drug abuse and therefore was interpreted narrowly as a drug education bill.

The following year a second bill (LB 1224) was introduced under the sponsorship of the Interim Drug Study Committee. This bill was modeled after similar legislation developed in Illinois and called for the establishment of a comprehensive health education program to be implemented through the offices of the Commissioner of Education and supported by preservice and inservice teacher preparation programs. The proposed legislation called for the establishment of a citizens' advisory committee to oversee the programs developed by the Commissioner's office. The Commissioner was directed by the legislation to "promulgate" whatever rules and regulations were considered necessary to implement the provisions of the act.

Hearings on LB 1224

During hearings before the Education Committee of the Nebraska Legislature the real lessons in communication and the political process began. In retrospect, these lessons appear clear, but actions by the bill's supporters lead to the conclusion that the proponents were mistaken in the assumption that comprehensive

---

**State Capital, Lincoln, Nebraska 68508

***Nebraska Statutes 79-1270.

health education is held to be of equally high value by everyone. Considering that an education bill was at stake, it was paradoxical that communication had reached its nadir.

Speaking for the proposed legislation, the representative of the Interim Drug Study Committee, who became the sponsoring senator, indicated that the legislation had been expected to receive wide support, but certain words in the legislation had generated opposition. In the bill, specific content areas to be included in the curriculum were identified: human ecology and health, human growth and development, prevention and control of disease, public and environmental health, consumer health, safety education and disaster survival, mental health and illness, personal health habits, alcohol, drug use and abuse, tobacco, nutrition, and dental health. The goal of the bill was to "favorably influence the knowledge, attitudes, values, and practices of Nebraska school youth" in these content areas. Opposition had arisen because of the words "human ecology and health, human growth and development," and "influence the knowledge, attitudes, values, and practices." In addition, there was great concern because the bill would empower the Commissioner of Education to set the "minimum amount of instruction time" to be devoted to health education in all of the schools in Nebraska.

The limits for the hearing were set: 1) the bill would effectively implement the previous year's less specific and unfunded legislation; 2) the bill was to provide much needed implementation funds; 3) the bill had some terminology problems which the sponsors were willing to solve.

The text following summarizes the responses to these limits.

Supporting Testimony During Hearings on LB 1224

Speakers for this legislation represented the Nebraska Civil Defense Directors Association, the Nebraska Inter-Agency Health Planning Council, Incorporated, the Nebraska Medical Association, and the state's two largest school districts.

The Nebraska State Civil Defense Directors Association testified on behalf of the legislation, principally because it called for safety education and disaster survival.

The Nebraska Inter-Agency Health Planning Council, Incorporated, a coalition of voluntary and professional agencies, testified on the bill's behalf because they interpreted the legislation as setting clear requirements and as supporting a mechanism for providing training for health educators.

The Nebraska Medical Association representative spoke on behalf of the proposed legislation and supported the local control stipulation, an important factor, especially in a largely rural state like Nebraska. He also then responded to an education committee member's question on terminology.

> 'It is clear that the social and educational problems of Washington, D.C., are not those of Nebraska. It is clear that the social and educational problems of Omaha and Lincoln are not those of Wahoo and Waverly and North Platte [three rural Nebraska communities]. The social problems of every community, whether it's Catholic or Protestant or Fundamentalist or other..., has its own special problems and educational needs.... It is clearly democratic to establish the basic control of this program in the local communities, in the local school boards.... I have great confidence in the judgement of the patrons of any school district, [sic] that decides what their children need and how they want it delivered.'

A member of the legislative committee holding the hearing then asked the physician representative of the Medical Association if he would explain the term "human ecology":

> 'I think that it should be used in a broader sense.... It has much more to do with the human being, [sic] than just sex and reproduction. Human ecology is the whole environment, and conservation of soil and water are part of human ecology; a state's school building and environment for children to go to school in, is part of the school ecology and I'm not troubled by the use of that word, but I'd welcome any other word.'

A representative of the Lincoln Schools spoke in favor of the proposed legislation and was asked by a member of the Education Committee whether what was now being taught was "human ecology" or "sex education." The Lincoln Schools Health Consultant replied:

> 'First of all, I think we are not doing a very good job on the facts of survival. When you come to human ecology, I think we're trying to do the best job we can with it. We do feel that you can't help but teach some sex education by being a man or a woman teacher, by your actions and by your very attitudes... I think the word is pretty good, because ecology means the whole climate, the whole atmosphere, everything that impinges upon an individual....'

Opposing Testimony During Hearing on LB 1224

Speaking only for himself and his family, a local resident, well known for his role as Executive Secretary of the Nebraska School Improvement Association, testified:

> '...I recognize the sincere concern of the previous speakers with the number of problems that are confronting our society today. I know that most people are deeply concerned and troubled by what has happened to our young people in their turning to drugs, the emotional problems that it has caused within families. However, I cannot in good conscience support legislation which has broad language and terminology which this bill contains. I sat through the hearing in 1971, when LB 51 was heard and I supported it. I thought it was a necessary piece of legislation. I know of nothing that these men preceding me, who spoke in favor of this bill, are asking for that is not now available in most schools, perhaps not to the extent that they would like to see it available, but that is not now available. There is a problem, I understood, with financing; there was no money appropriated....'
>
> 'Now, so far as the bill itself is concerned. Section two, as you have already been told, deals in some very ambiguous language, which it is impossible for anyone, short of those people who have worked in these various fields, to understand.'

The speaker reported problems in the sex education area related to semantics. Then he went on to raise questions concerning the Nebraska Medical Association representative and the Inter-Agency Health Planning Council, Incorporated representative:

> '[the Medical Association representative]...supported the very things that he supported here with you this afternoon. He supports sex education in the schools, without the limitations, without restrictions, without a monitoring system of our teachers, to know what their moral values are, what their moral attitudes are, and what will be transmitted to these children.
>
> 'I cannot believe that the Nebraska Medical Association has seen this bill, and has supported it, endorsed it per se, because it has not been available for more than four days. They perhaps support some of the concepts of this bill, but they could not possibly support this bill, as it is being heard here this afternoon, because they have had no opportunity for their Board of Delegates to even get together and review it....'

'Sex education in the schools is an integral part of this proposal...[they used the language] human growth and development, which is synonymous with sex education and had the people fully had the opportunity to be appraised of what was in this bill, and had the people been given the chance to have discussed it...I'm certain you would have heard from them, before this hearing was ever conducted. It's unfortunate that we couch language. That we do not come out directly any longer and say what we mean, and this is extremely misleading.'

'I'm sure that the previous speaker [Inter-Agency Health Council representative] is just as aware of what human growth and development means as I am. He served as a moderator on the panel of which I was a member on sex education in the schools. He's not, by any stretch of the imagination, unfamiliar with what this bill is doing, so the point I want to stress at this time is that these people did not deny, when they appeared before you...[that the bill] was intended to bring a sex education program into the schools. Their silence on this subject or this issue would verify what I'm saying. That this is designed to bring sex education into the schools not any longer on a school board-parent basis, but rather on a statewide basis supported by a committee,...'

'...if they [supporters] were asked in advance of the testimony that was given today, to sit down and write a definition of all the terminology that was used in this bill, I dare say you would have had as many different answers as there are members on this committee. There would not have been accord or agreements, because no one, as far as I'm concerned, has yet defined what human ecology is or that it can be limited to any specific definition.'

Response to the supporters of the legislation was clear. In the minds of the opposition the proposed legislation: 1) did little if anything that the previous legislation could not achieve; 2) avoided definition of the words used in the legislation permitting an open ended opportunity to introduce issues such as sex education to the state's classrooms; 3) took from the local schools control over their curricula and placed it in the hands of the State Commissioner of Education. In addition, the supporting testimony was suggested to be questionable because: 1) the Medical Association representative could not have had time to get his "Board of Delegates" informed consent; 2) the Inter-Agency Council representative served as a moderator on a panel discussing sex education, and therefore, recognized the supposed unwritten intent of this bill; 3) not all had time to digest fully and understand the ramifications of the legislation. This presentation of opposition began on a conciliatory note but ended with well stated concerns.

Next a series of "free floating fears" was suggested. Free floating fears are vague and general and do not have foundation in fact. These concerns were elaborated on by four more additional speakers. Under questioning from the committee one speaker had an opportunity to express his concerns:

> 'I do concern myself...with a subject which is not properly the function or cannot properly be the function of a public school system [sex education], which cannot and will not give direction of right and wrong.... In other words, it becomes more than a mathematical problem or more than a history problem, this is something dealing with the moral factors of that individual. The instructor of the class could be an agnostic, could hold altogether different values than the parents hold, and as a consequence, could actually disrupt that child's attitudes toward the values held by the parents, to the point of creating stress and conflicts within that family.'

Yet another fear is introduced--the morality of the teacher:

> 'Human growth and development has been consistently used interchangeably with sex education per se...Human ecology to me means birth control information to children at either the secondary or elementary level.'

Such fears were given added support because they had not been denied by the bill's supporters. For example, it was clearly stated that the legislation supporters had not denied that the intent of the bill was to introduce sex education; therefore, because there was no stated denial, the opponents were able to suggest that there was such an intent: such an intent in fact could be supported only in the most tenuous manner, if at all. Testimony format assisted this inference by having supporters for the legislation speak first and by not allowing any rebuttals following the opponents' testimony.

While these free floating fears were being suggested, a clear alternative was proposed for the supporters of the legislation--an alternative which was overlooked. The opposition would support a funding bill for the previous year's legislation:

> '...I would suggest that if there needs to be further additions to LB 51 that was enacted in the last session of the legislature, if there needs to be funding of which I think we all agree there needs to be, then why not use this approach, rather than come in with a completely new concept, with much broader ramifications which we simply cannot envision in total here this afternoon....'

Events showed, however, that this opportunity was never grasped by the proponent group. Such an action, funding of the previous year's legislation, would have been a significant and constructive compromise.

Another opportunity to compromise, missed by the proponents, is illustrated in this quote: "...I oppose the bill, because of the inability of the adopters... to define their terms...."

Clear definition of the terminology might have made the bill more acceptable. However, while not documented, it can be inferred that the alternative of clarifying terminology may have been slow death for the legislation. Not only is the difficulty of finding common semantic ground a time consuming process but specific definitions make it possible to say that certain things cannot be taught (because they are not included in the definitions), denying the individual freedoms of school districts, administrators and teachers, the very thing the opposition claims to be repugnant about the present legislation, i.e., it forces local boards to do things they may not wish to do.*

Remaining speakers expanded and reinforced the major points made by the first speaker opposed to the legislation. The following excerpts provide a summary of the opposition argument:

A. Semantics

> '...I have reviewed guidelines, as they pertain to health, sex education, family life education, whatever semantic terms you wish to use, from 25 states in the United States, and the consistency of the recommendation leaves little to the imagination. They are so identical they could just as well have been put out by the same printing press.'
>
> 'With the double talk use of terminology to accomplish by subterfuge, what they fail to accomplish straightforward, these proponents of compulsory sex education in our school systems have taken to referring to these programs as human growth and development rather than sex education and the variety of learning experiences rather than sensitivity training and scientific knowledge of the human organism to cover human behavior instruction, as many of us have found repulsive in our educational institutions lately.'

---

*To help interpret the value with which Nebraskans hold local autonomy it should be noted that the state's population is about 1.48 million and that there are 1,167 school districts, more than any other state in the union.

'Human ecology today is often thought of as population control. If you read any material on human ecology, this is a great deal of what it deals with. Under population control I suggest, of course, abortion, which is unaccountable to any Christian, and I also suggest what some of us in this room should be thinking about control when you get older..if you can kill the unborn and you can kill the old, then maybe you can kill the cripples, or people that have some problem.'

B. Local control versus state control:

'...the youth in a county that has only a thousand population are certainly different than the needs of the students in Lincoln and Omaha, and it seems a waste of state expenditures to require as it says,...'a systematic program.' It seems ridiculous to require such a program for a small country, which has no need, whatsoever of it when a smaller type program would meet the needs just as well, and who is to decide what the needs are.'

C. Morality of teachers:

'Now the children are there to be educated. Their moral values come from another source; I believe at one time it was incorporated in the schools, when the school had religious direction, but the government schools are not our religious direction, if we're going to remain as free people.'

D. SEICUS:

'...remember my deep concern of an organization called SEICUS, the Sex Education and Information Council of the United States. They maintain that they are promoting good health; I doubt it.'

'...human ecology does refer to sex education. Dr. Mary Calderone, who is associated with the SEICUS board said that if you cannot get sex education into the public schools legally, then sneak it in, and I believe this is the purpose of this phraseology and terminology, which is a double standard.'

'...We see that this [program] is to provide a variety of learning experiences, based on scientific knowledge of the human organism and its functions within its environment, which will favorably influence the knowledge, values, and practices, and aid in the making of wise personal decisions. Those very same phrases occur again and again in SEICUS information.'

'This bill cannot possibly promise that there will be no deleterious side effects, without specific amendments guarding against the misuse of SEICUS program information...disguised as health education.'

E. Costs:

'...We already have some health programs, but if we expand them it is going to cost a great deal of money, and our schools are in deep financial trouble now...'

'To establish an entirely new commission for health education opens the door to every subject in the school curriculum. Are we then to have a commission on mathematics and the numbers concept? After all, some of our present-day products of the new math instruction are no more able to make the correct change at the checkout counter than some of our youth are able to take care of their own physical well-being, and each of these new commissions represents an additional expense to every local person and taxpayer.'

The Demise of LB 1224

The legislation in question was amended by the Education Committee to be less offensive to the opposition. It was then passed with a vote of six ayes, zero nays, two absences, and sent to the floor of the legislature where it was placed on general file. Six weeks later, the legislative session came to an end; the legislators voted to postpone indefinitely all bills still before committees or in general file. And so LB 1224 came to its final resting place.

Since the demise of LB 1224, two more attempts have been made to legislate comprehensive health education for the state's elementary and secondary schools. Both of these bills were defeated by the same arguments raised against LB 1224.

Implications

1. Legislation such as this, essentially "borrowed" from another state, is highly at risk because it does not reflect local values. If the need realy exists, careful local efforts to draft legislation, considering possible opposition, would increase the prospects of passage and funding.

2. Health Education continues to be a misunderstood term, and low in most people's priorities.

3. Pro-health education forces overreached in seeking new legislation rather than simply seeking funding for existing legislation--a case of unrealistic expectations.

4. Health educators pride themselves on being able to communicate. Under the stress of the political process such communication was not the case. Options presented in opposition testimony were ignored or misunderstood.

5. Despite the fact that for a number of years similar strategies which defeated this bill have defeated other health issues, (e.g., fluoridation) little real learning among health educators appears to have resulted from this series of negative experiences.

6. No matter how much preparation is carried out, the "free floating fear" is almost impossible to counter without extensive public understanding and support of the legislation in question.

7. Efforts placed in a project to implement a model school health education curriculum, and to raise money for the materials and training, as for example, the School Health Curriculum Project (Berkeley Project), would likely have greater impact than promoting laws setting requirements, or printing curriculum guides.

Well-trained, well-equipped teachers ought to be able to work out with their local communities just what can be taught. The emphasis should be on the quality of the teaching, not on the requirements of the law. Despite health education's best efforts, legislation will never give legitimacy to the field. Legitimacy will result from exemplary programs serving the communities' needs and involving the communities' resources.

References

1. Creswell, William H., and Janeway, Thomas M. "A Comprehensive Health Education Program for Illinois Schools." Journal of School Health, 44(6): 336-339, June, 1974.